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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

AZNIV MAZMANIAN et al.,

Petitioners,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

MANOR CARE HEALTH
SERVICES, INC, et al.,

Real Parties in Interest.

E050491

(Super.Ct.No. RIC520135)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Paulette Barkley,
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition granted.

Wilkes & McHugh, Kimberly A. Valentin and Joseph F. Fighera for Petitioners.

No appearance for Respondent.

No appearance for Real Parties in Interest.

INTRODUCTION

In this matter, we have reviewed the petition and offered real parties in interest an opportunity to file a response to the petition, but they have not done so. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is, therefore, appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

DISCUSSION

It is not disputed that petitioners filed their motion to compel on December 3, 2009—one day before the last day stipulated by the parties. Petitioners also served real parties in interest with a copy of the motion on that date. The reliance of real parties in interest and the trial court on the fact that this notice did not inform real parties in interest of the hearing date is misplaced.

Under the procedure followed by the Superior Court of Riverside County, petitioners could not know the hearing date when they served the original notice. Once the court informed petitioners of the hearing date that had been assigned, petitioners gave full and timely notice. Neither Code of Civil Procedure sections 2030.300 and 2031.310, subdivision (c), nor California Court Rules, rule 3.1110(b)(1), require more.

DISPOSITION

Accordingly, the petition for writ of mandate is granted. Let a peremptory writ of mandate issue, directing the Superior Court of Riverside County to vacate its order finding the motion to compel to be untimely, and to hear and determine the motion on its merits.

Petitioners are directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties. Petitioners to recover their costs.

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HOLLENHORST
Acting P. J.

We concur:

McKINSTER
J.

MILLER
J.